

**ORIGINAL**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

LIBERTY MUTUAL GROUP as subrogee  
of LAUREN WALLACE,

Plaintiff,

v.

JOSEPH A. WASHINGTON  
840 NW 168<sup>th</sup> Drive  
Miami, FL 33169-5323

AND

SINCLAIR OPERATING CO.  
1000 Greenside Drive  
Cockeysville, MD 21030

AND

DEPARTMENT OF UNITED STATES ARMY  
c/o Aberdeen Proving Ground  
Building 310/Wing 2  
Aberdeen Proving Ground, MD 21005

AND

UNITED STATES OF AMERICA

Defendants..

Civil Action No.

**07 - 7 5 5**

FILED  
CLERK U.S. DISTRICT COURT  
DISTRICT OF DELAWARE  
2007 NOV 21 PM 4:17

**COMPLAINT**

Plaintiff, by and through its attorneys, Reger Rizzo Kavulich & Darnall LLP, hereby allege as follows:

1. Plaintiff, Liberty Mutual Group ("Liberty"), a/s/o Lauren Wallace, is a Corporation licensed to conduct the business of insurance in the State of Delaware.
2. At all times relevant hereto, Plaintiff, Liberty, provided a policy of automobile liability insurance coverage including no-fault and collision insurance coverage to Lauren Wallace.

3. Defendant, Joseph A. Washington("Washington")is a resident of the State of Florida, with a permanent address of 840 NW 168<sup>th</sup> Drive, Miami, FL 33169-5323. Based on information and belief Washington is a member of the United States Army who was stationed at Aberdeen Proving Ground at the time of the accident. At all times material hereto, Washington operated a vehicle(the "vehicle") leased to the Department of the Army at Aberdeen Proving Ground, Aberdeen Maryland in the course and scope of his duties.

4. Defendant, Sinclair Operating Co. ("Sinclair") is a company who is in the business of leasing vehicles. At all times material hereto, Sinclair was the owner of the vehicle driven by Washington.

5. Defendant, Department of United States Army ("Army"), was the lessee of the vehicle that was driven by Defendant Washington. The Department of United States Army is a branch of the Department of Defense, which is operated by the United States of America ("USA").

6. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1346 (b), 2671-2680.

7. On November 22, 2005 Plaintiff's subrogor, Lauren A. Wallace was traveling southbound in the 300 block of South Union Street in Wilmington Delaware in the left lane approaching Linden Street when her vehicle was struck by Defendant, Washington, as he was attempting to change lanes.

8. Defendant Washington was negligent in that he:

- a) Operated a motor vehicle on a public highway in a careless and imprudent manner in violation of 21 Del. C. §4176(a);
- b) Operated a motor vehicle on a public highway while failing to give full time and attention to the operation of the motor vehicle, and also failed to maintain a proper lookout while operating the motor vehicle in violation of 21 Del. C. §4176(b);

- c) Failed to yield the right-of-way on a left turn in violation of 21 Del. C. §4132;  
and
  - d) Failed to operate the motor vehicle as a reasonable and prudent person under the  
circumstances.
9. Defendant, Sinclair was negligent in the following manner:
- a. Defendant Sinclair permitted Defendant Washington to operate their  
vehicle in the State of Delaware when Defendant Sinclair knew or  
should have known that Defendant Washington would drive carelessly,  
negligently or recklessly;
  - b. Defendant Sinclair permitted Defendant Washington to operate his  
vehicle recklessly, with wilful or wanton disregard for the safety of  
persons and property;
  - c. Defendant Sinclair allowed their vehicle to be operated in a careless or  
imprudent manner by a person whom Sinclair knew or should have  
known would so operate the vehicle;
  - d. Defendant Sinclair failed to exercise due care to prevent damage to the  
vehicle of Plaintiff's insured in violation of their common law duty to  
motorists;
  - e. Defendant Sinclair was otherwise negligent.
10. Defendant, Department of United States Army was negligent in following manner:
- a. Defendant Army permitted Defendant Washington to operate their  
vehicle in the State of Delaware when Defendant Army knew or should  
have known that Defendant Washington would drive carelessly,  
negligently or recklessly;
  - b. Defendant Army permitted Defendant Washington to operate his vehicle

recklessly, with wilful or wanton disregard for the safety of persons and property;

- c. Defendant Army allowed their vehicle to be operated in a careless or imprudent manner by a person whom Defendant Army knew or should have known would so operate the vehicle;
- d. Defendant Army failed to exercise due care to prevent damage to the vehicle of Plaintiff's insured in violation of their common law duty to motorists;
- e. Defendant Army did not properly supervise vehicles to assure vehicles would not be used for non-military purposes.
- f. Defendant Army is liable for the actions of Defendant Washington as Washington was in the course and scope of his duties.
- g. Defendant Army was otherwise negligent.

11. Defendant USA was negligent in the following manner:

- a. Defendant USA permitted Defendant Washington to operate their vehicle in the State of Delaware when Defendant USA knew or should have known that Defendant Washington would drive carelessly, negligently or recklessly;
- b. Defendant USA permitted Defendant Washington to operate his vehicle recklessly, with wilful or wanton disregard for the safety of persons and property;
- c. Defendant USA allowed their vehicle to be operated in a careless or imprudent manner by a person whom Defendant USA knew or should have known would so operate the vehicle;
- d. Defendant USA failed to exercise due care to prevent damage to the

vehicle of Plaintiff's insured in violation of their common law duty to motorists;

- e. Defendant USA did not properly supervise vehicles to assure vehicles would not be used for non-military purposes.
- f. Defendant USA is liable for the actions of Defendant Washington as Washington was in the course and scope of his duties.
- g. Defendant USA was otherwise negligent.

12. As a direct and proximate result of the aforesaid negligence of the Defendants the Plaintiff's subrogor, Laureen Wallace, sustained property damages and rental fees in the amount of \$6,940.00 which was covered under Liberty's collision coverage.

13. Liberty Mutual Group paid to on behalf of Laureen Wallace Personal Injury Protection benefits in the amount of \$12,332.20.

WHEREFORE, Liberty Mutual Group respectfully requests judgment entered in its favor and against Defendants, jointly and severally, in the amount of \$19,272.20, plus pre-judgment interest, post-judgment interest, attorney's fees, costs and such other damages that the Court may deem just and proper.

**REGER RIZZO KAVULICH & DARNALL, LLP**

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Louis J. Rizzo, Jr., Esquire (ID # 3374)  
1001 Jefferson Plaza, Suite 202  
Wilmington, DE 19801  
(302) 652-3611  
Attorney for Plaintiff, Liberty Mutual Group

07-755

ORIGINAL

JS 44 (Rev. 11/04)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

LIBERTY MUTUAL GROUP as subrogee of  
LAUREN WALLACE

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Louis J. Rizzo, Jr., Esquire, 1001 North  
Jefferson St. Ste 202 Wilmington DE 19801

## DEFENDANTS

Joseph A. Washington, Sinclar Operating Co.  
Department of United States Army and United  
States of America

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | PTF                        | DEF                        |   | PTF                        | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

## V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 USC §1346(b)

Brief description of cause:

Subrogation claim for motor vehicle accident for PIP and Property Damage

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

19,272.20

CHECK YES only if demanded in complaint:

JURY DEMAND:

Yes ☐ No ☐

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

2008 OCT 21 PM 4:17  
FILED  
U.S. DISTRICT COURT  
WILMINGTON, DE

AO FORM 85 RECEIPT (REV. 9/04)

United States District Court for the District of Delaware

Civil Action No. 07-755

FILED  
U.S. DISTRICT COURT  
DISTRICT OF DELAWARE  
2007 NOV 21 PM 4:25

**ACKNOWLEDGMENT**  
**OF RECEIPT FOR AO FORM 85**

**NOTICE OF AVAILABILITY OF A**  
**UNITED STATES MAGISTRATE JUDGE**  
**TO EXERCISE JURISDICTION**

I HEREBY ACKNOWLEDGE RECEIPT OF \_\_\_\_\_ COPIES OF AO FORM 85.

11/21/2007  
(Date forms issued)

William R. Stewart  
(Signature of Party or their Representative)

William R. Stewart  
(Printed name of Party or their Representative)

Note: Completed receipt will be filed in the Civil Action